

Open and Public Meetings Act - Meeting Record

Draft

This draft makes three key changes to minutes provisions:

- 1) provides optional language for three different ways to address when minutes become a public record;
- 2) requires a public body to formally approve minutes; and
- 3) requires a recording to be available to the public for listening within a specified time (*three business days*) after the meeting.

Proposed Language	Notes
<p>52-4-203. <u>Written</u> minutes of open meetings -- Public records --</p> <p>Recording of meetings.</p> <p>(1) Except as provided under [Subsection(8)] <u>Subsection(7)</u>, written minutes and a recording shall be kept of all open meetings.</p> <p>(2) Written minutes of an open meeting shall include:</p> <p>(a) the date, time, and place of the meeting;</p> <p>(b) the names of members present and absent;</p> <p>(c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;</p> <p>(d) a record, by individual member, of each vote taken by the public body;</p> <p>(e) the name of each person who is not a member of the public body, and upon recognition by the presiding member of the public body, provided testimony or comments to the public body;</p> <p>(f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and</p>	

Proposed Language	Notes
(g) any other information <u>that is a record of the proceedings of the meeting</u> that any member requests be entered in the minutes or recording.	Clarify that "other information" must be part of what happen in the meeting
(3) A recording of an open meeting shall:	
(a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and	
(b) be properly labeled or identified with the date, time, and place of the meeting.	
(4) (f)(8) The <u>written</u> minutes and <u>[recordings]</u> <u>recording</u> of an open meeting are public records <u>[and]</u> under Title 63G, Chapter 2, <u>Government Records Access and Management Act</u> as follows:	Reference moved from old Sub (7) Draft minutes Provision Key Policy Choice: When should minutes be considered a public record? (Where should we draw this line?) Three options include: Option a. this specifies that when minutes are prepared waiting approval, they are public records in accordance with the Utah Supreme Court in Conover v. Board of Education, 267 P.2d 768 (Utah 1954) and findings of the State Records Committee in Poll v. South Weber City, Case No. 04-14 Option b. this specifies that the public is able to obtain the minutes as soon as they are created and don't have to wait for final edits; or Option c. this specifies that the public should not have access to the minutes until they are being considered for approval by the public body at a
Option a. (a) <u>Written minutes that have been prepared in a form awaiting only formal approval by the public body are a public record.</u>	or <u>Written minutes are a public record when created regardless of any editing process that may follow the creation of the written minutes.</u>
Option b. (a) <u>Written minutes become a public record at the beginning of the meeting in which they are:</u> <u>(i) placed on the agenda for consideration; or</u> <u>(ii) considered for approval by the public body.</u>	or <u>Written minutes are a public record when created regardless of any editing process that may follow the creation of the written minutes.</u>
Option c. (a) <u>Written minutes become a public record at the beginning of the meeting in which they are:</u> <u>(i) placed on the agenda for consideration; or</u> <u>(ii) considered for approval by the public body.</u>	

Proposed Language	meeting	Notes
(b) <u>Written minutes shall be available to the public within a reasonable time after the end of the meeting.</u>		Available within a reasonable time provision Add clarity
(c) <u>A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.</u>		Approval of minutes provision Require approval of written minutes under the public bodies own procedures (most public bodies already do this and won't have to change anything)
(d) <u>Written minutes are the official record of action taken at the meeting.</u>		Official record provision Provision moved from old Subsection (7)
(e) <u>A recording of an open meeting shall be available to the public for listening within three business days after the end of the meeting.</u>		Recordings available early provision Specify that recordings must be available for listening soon after the meeting.
(f) <u>An open meeting record kept only by a recording must be converted to written minutes within a reasonable time upon request:</u>		Delete conflicting provision -- under Subsection (1) both written minutes and a recording are required so no one should have to request that a recording be converted to written minutes
(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.		
(6) <u>[Minutes or recordings] The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.</u>		Provisions moved to Subsection (4) and (4)(d)
(7) <u>Written minutes and recordings of open meetings are public records under Title 63G, Chapter 2, Government Records Access and Management Act, but written minutes shall be the official record of action taken at the meeting.</u>		Provisions moved to Subsection (4) and (4)(d)

Proposed Language	Notes
<p>[{8}] <u>17</u> [Either-written-minutes-or-a-recording-shall] <u>Notwithstanding Subsection (1), a recording is not required to</u> be kept of:</p>	<p>Clarify that written minutes are always required for open meetings, but only a recording is optional in certain cases.</p>
<p>(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; <u>[and]</u> <u>or</u></p> <p>(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.</p>	<p>Picking up all the discussions on a recording during a site visit may be very difficult -- making the recording unlikely to very useful and even less likely to be a complete record of the meeting</p> <p>Policy choice: Is this exemption still needed – under Section 52-4-206 and since 2006, a closed meeting must be recorded (i.e., small local districts must record closed meetings but don't have to record open ones)?</p>